

REMARKS

Claim Objections

The Examiner has objected to Claims 1, 10, 19, and 25 of the present application because of several informalities. Applicant has made all instructed amendments to the above claims to cure these informalities. For instance, applicant has amended Claim 1 so that, on Line 13, the phrase “a recessed” has been changed to “said extended,” and the phrase “and a second pivot member which contacts said pivot means when said tumbler is in an extended position” has been amended so that it now properly describes the actions of the second pivot member, and on Line 16, the word “first” has been changed to “second” in compliance with the Examiner’s instructions. Additionally, applicant has amended Claim 10, so that, on Line 13, the phrase “a recessed” has been changed to “said extended,” and on Line 14, the phrase “and a second pivot member which contacts said pivot means such that when said tumbler is in an extended position it is thereby being prevented from further travel by the contact of the pivot member with said pivot means” has been changed so that it now properly describes the present invention as disclosed in the specification and drawings of the present application, in compliance with the Examiner’s instructions. Claim 19 has also been amended by applicant so that, on Line 19, the phrase “a recessed” has been changed to “said extended,” and the word “first” has been changed to “second,” in compliance with the Examiner’s instructions. Finally, applicant has amended Line 1 of Claim 25 so that the word “in” has been changed to “is” in compliance with the Examiner’s instructions.

Claim Rejections – 35 USC § 112

The Examiner has rejected Claims 1-3, 5-18, and 26 of the present application under 35 U.S.C. § 112, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As such, applicant has amended the relevant claims so as to come into compliance with the ambiguities of 35 U.S.C. § 112, and the Examiner's instructions. First, the Examiner rejected Claims 1-3 and 5-18 because "Claims 1 and 10 recite that the second pivot member contacts the pivot means when the tumbler is in an extended position." Applicant has amended Claims 1 and 10 so that no such recitation exists. In both claims, applicant now correctly recites that the second pivot member contacts the pivot means of the tumbler when the tumbler is in the *retracted* position, and not the extended position.

The Examiner has also rejected Claim 26 of the present application because, in that claim, applicant recited that the second pivot member contacted the top surface of the pin when the tumbler was in the extended position. This was an incorrect statement, and applicant has amended Claim 26 so that this statement is now correct. It now reads, "second pivot member contacts said bottom surface of said pin when said tumbler is in said retracted position."

Because applicant has made the requested amendments to Claims 1-3, 5-18, and 26, they should now be allowable under 35 U.S.C. 112.

Claim Rejections – 35 USC § 103

The Examiner has cited United States Patent No. 5,248,174, issued to Matz et al., against the claims of the present application. However, the present invention is a novel

window vent stop which is patentably distinguishable from and, in many ways, superior to the teachings of Matz, et al. As such, applicant has amended the claims of the present invention to better reflect these distinctions.

First of all, the teachings of Matz et al. disclose a window vent stop which operates using a tumbler that has “an apex (101) located on an upper arcuate portion (102)” where an upper end (104) and a rear edge (105) meet (Column 5, Line 63). Likewise, the vent stop taught by Matz et al. has a housing (113) with a back wall (112) with an upper portion (111), from which extends a “wedge-shaped protrusion” (114), which “is constructed to engage apex 101 of the tumbler 103, as the tumbler 103 is propelled into an extended position” (Column 5, Line 68 to Column 6, Line 2). Matz et al., therefore, does not teach or show a vent stop wherein a portion of the tumbler protrudes out of an opening in the back wall (112) of the housing (113), when tumbler is in the extended position, and wherein the portion of the tumbler that protrudes outwardly through the opening in the back wall engages an edge of the back wall that forms the opening.

In sharp contrast, the present invention teaches a vent stop with precisely those characteristics. For instance, the disclosure of the present application describes how the back wall (or “bottom plate,” as it is so named by applicant) “need only extend across a portion of the area between the bottom edges of the housing members” and it “may have one or more openings as desired” (Page 7, Lines 12-14). In addition, applicant describes a second pivot member (50) of the tumbler that has a bottom contact surface (52), which “hits the bottom plate in at least one and preferably two locations... the edge 31 of the bottom plate and... the top surface 55 of the bottom plate when the tumbler is in a[n]

extended] position" (Page 10, Lines 2-4).

Claim 1 of the present application, as currently amended by applicant, now better handles this aspect of the present invention. In the claim, as currently amended, new language describes the bottom plate of the housing as having a top surface forming an edge which extends from the top surface of the bottom plate to the bottom surface of the bottom plate and forms at least one wall of an opening in said bottom plate (Claim 1, Lines 3-7). Previous representations of Claim 1 have failed to include the important distinctive feature of the present vent stop, namely, that it has at least one opening in the bottom plate, which the tumbler engages with when in the extended position. Now that applicant has amended the claims to cover this feature, the currently amended claims should no longer be unpatentable over Matz, et al.

A further distinction between the present invention and the teachings of Matz, et al. is the pivot means-pivot member system. Matz et al. does not teach or show a tumbler that has a first and second pivot member that rotate about the pivot means when the tumbler moves between retracted and extended positions. Instead, the tumbler taught by Matz et al. has two sidewalls, which extend from front edge 55 to rear edge 56, and from upper end 60 to lower end 61, and an orifice (62), which extends from one sidewall to the other sidewall (Column 4, Lines 10-14). This orifice engages the pivot means (38), as is shown in Figures 2-6 of the prior art application, and allows the tumbler to rotate around the pivot means when it moves between a recessed and an extended position.

The present application, however, describes a far different pivot means-pivot member assembly. The pivot means-pivot member assembly described in the present application is characterized by a first pivot member (49) and a second pivot member (50)

which are at the rear end (48) of the tumbler, and a pivot means (45) which has an upper surface (51) and extends from one inside wall of the housing to the other inside wall.

When the tumbler is released from the housing, the first pivot member (49) rotates about the pivot means (45) until it hits the upper surface (51) of the pivot means and prevents the tumbler from further rotation (Page 9, Lines 18-21). Additionally, the second pivot member (50) also extends from the tumbler and also rotates as the tumbler is released from the housing until it eventually contacts the aforementioned edge of the bottom plate and stops the tumbler's rotation.

There are several significant differences in the two pivot mechanisms described above. A first distinction is that, while the tumbler taught by Matz et al. has an orifice in its sidewall into which the pivot means fits, no such orifice is present on the tumbler of the present invention. Instead, the vent stop of the present invention has two pivot members, which extend like two tails from the rear end of the tumbler, and which have a space between them, into which the pivot means fits. Indeed, the two pivot members never touch, so that, unlike in the Matz tumbler, the pivot means in the present invention is never entirely encircled by a portion of the tumbler.

An additional distinction between the present invention vent stop and the prior art is that, while the pivot means shown in Matz et al. is a cylindrical or ovate pin, the present pivot means is one which has a flat upper surface, and is preferably T-shaped, as is shown in the drawings of the present application. A final notable distinction between the present invention pivot mechanism and that of the teachings of Matz et al. is that, while in the present invention, the pivot means not only provides a pin around which the tumbler can be rotated, but also functions as a stopping mechanism for halting rotation of

the tumbler as it moves into the extended position, the prior art pivot means only serves the rotational function. In other words, the pin seen in Matz et al. will not prevent the tumbler from rotating any further than it already was going to rotate. It is obvious, therefore, that a pivot mechanism that serves two operational purposes would be superior to pivot mechanism that only serves one purpose, making the advancements taught in the disclosure and now covered by the currently amended claims of the present application significant in comparison to the prior art teachings of Matz et al.

The Examiner has also cited U.S. Patent No. 1,656,818, issued to James Williamson Dillon, against the claims of the present application. However, the window fastener taught and described by Dillon differs greatly from the window vent stop of the present invention. Primarily, the vent stop of the present invention is a one-piece apparatus that fits into the sash stile of the upper portion of a window sash and, which, releases the upper portion of a tumbler which prohibits the lower window sash from being pushed upward opened wider than a certain distance. The Dillon window fastener, on the other hand, is a two-piece mechanism which utilizes a keeper bar and a catch. The keeper bar has a plurality of keepers into which the catch, which is placed on the upper stile of the lower window sash, can be engaged. Once the catch is engaged in the keeper, the window is prevented from being opened any further. This is a far more complicated, elaborate, and expensive means of achieving the same goal that the vent stop of the present invention achieves with less material, production, and wasted motion and effort on the part of the user (in hooking in the catch and unhooking it). As such, the claims of the present invention should be patentable over the teachings of Dillon.

CONCLUSION

For the foregoing reasons, Applicant requests reconsideration of the rejection.

Respectfully submitted,



Thomas A. O'Rourke
Reg. No.: 27,665
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville, NY 11747
(631) 249-7500